

29. Workers Management Council: (1) In every establishment employing fifty persons or more, the management shall set up a Workers Management Council consisting of not less than six members in which the workers' participation shall be fifty percent and the convener of the Council shall be from the management.

(2) The employer's representative in the Council shall be from amongst the directors or their nominees or senior executives and the workers' representatives shall be workmen employed in the same establishment and shall--

- (a) where there is a collective bargaining agent in the establishment, be nominated by it; or
- (b) where there is no collective bargaining agent in the establishment, be elected by simple majority at a secret ballot by all workmen employed in the establishment¹; and]
- ²[(c) if women are employed as workers in the establishment, group of establishments or industry with which the trade union is connected, unless it has included the female workers in the executive body, not being less than the proportion of their

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numerical strength in the work force of the establishment.]

(3) The workers' representatives shall hold office for a period of two years from the date of their election or nomination.

(4) The workers' representatives shall participate in all the meetings of the Council and all matters relating to the management of the establishment, except commercial and financial transaction, may be discussed in such meetings.

(5) The Council shall function for securing and preserving good labour management relation and shall look after the following matters--

- (i) improvement in production, productivity and efficiency;
- (ii) fixation of job and piece-rates;
- (iii) planned regrouping or transfer of the workers;
- (iv) laying down the principles of remuneration and introduction of new remuneration methods;
- (v) provision of minimum facilities for such of the workers employed through contractors as are not covered by the laws relating to welfare of workers;
- (vi) endeavour to maintain continuous sympathy and understanding between the employer and the workmen;
- (vii) settlement of differences and disputes through bilateral negotiations;
- (viii) security of employment for the workmen and conditions of safety, health and job satisfaction in their work;
- (ix) measures for facilitating good and harmonious working conditions in the establishment;
- (x) provision of educational facilities for children of workmen in secretarial and accounting procedures

and their absorption in these departments of the establishment; and

(xi) vocation training within the establishment.

(6) The management shall not take any decision in the following matters without the advice in writing of the workers' representatives--

- (a) framing of service rules and policy about promotion and discipline of workers;
- (b) changing physical working conditions in the establishment;
- (c) in-service training of workers;
- (d) recreation and welfare of workers;
- (e) regulation of daily working hours and breaks;
- (f) preparation of leave schedule; and
- (g) matters relating to the order and conduct of workers within the establishment.

(7) The workers' representatives may, on their own initiative, give advice in writing concerning the matters specified in sub-section (6) and, where they do so, the management shall convene a meeting of the Council within two weeks of the receipt of the advice to discuss its merits.

(8) The management shall give reply to the workers' representatives within six weeks of the receipt of their advice given under sub-section (6) or sub-section (7) and any such advice shall not be rejected except by the person holding the highest position in the management of the establishment.

(9) In case the advice of the workers' representatives is rejected by the management of the establishment, the matter may, within fifteen days of the advice being so rejected, be taken up by the collective bargaining agent for bilateral negotiations and thereupon the provisions of Section 34 shall apply as they apply to the settlement of an industrial dispute in relation to which the views of the employer or the collective bargaining agent have been communicated to the Council under sub-section (1) of that section.

(10) The Council may call for reasonable information about the working of the establishment from its management and the management shall supply the information called for by the Council.

(11) The Council shall meet at such intervals as may be prescribed.

(12) A collective bargaining agent or workers in relation to an establishment may lodge a complaint to the Registrar regarding non-setting up or improper functioning of the Council.

COMMENTS

This section provides that in every establishment employing fifty persons or more, management will set up a Workers Management Council. This Council will consist of six members. The participation of workers in this Council will be 50% and the convener of the Council will be from the Management. The Council will function for securing and preserving good labour management relation and will look after the following matters:--

- (i) improvement in production, productivity and efficiency;
- (ii) fixation of job and piece rates;
- (iii) planned regrouping or transfer of workers;
- (iv) laying down the principles of remuneration and introduction of new remuneration methods;
- (v) provision of minimum facilities for such of the workers employed through contractors as are not covered by the laws relating to welfare of workers;
- (vi) endeavour to maintain continuous sympathy and understanding between the employer and the workmen;
- (vii) settlement of differences and disputes through bilateral negotiations;
- (viii) security of employment for the workmen and conditions of safety, health and job satisfaction in their work;
- (ix) measures for facilitating good and harmonious working conditions in the establishment;

28. Shop steward to act as link between labour and management: (1) In every establishment in which fifty or more workmen are employed, shop stewards, from amongst the workmen in a shop, section or department of the establishment, shall--

- (a) where there is a collective bargaining agent in the establishment, be nominated by it, or
- (b) where there is no collective bargaining agent in the establishment, be elected at a secret ballot held in the prescribed manner.

(2) The employer shall provide all such facilities in his establishment as may be required for the holding of a ballot under sub-section (1) but shall not interfere with, or in any way influence, the voting.

(3) A shop steward shall hold office for a period of one year from the date of his election or nomination.

(4) Any dispute arising out of, or in connection with, the election of a shop steward shall be referred to the Registrar whose decision shall be final and binding on all parties to the dispute.

(5) The shop steward shall act as a link between the workers and the employer, assist in the improvement of arrangements for the physical working conditions and production work in the shop, section or department for which he is elected or nominated and help workers in the settlement of their problems either connected with work or with any such individual grievance of a workman as is referred to in sub-section (1) of Section 33.

35. Conciliator: The Government shall, by notification in the official Gazette, appoint as many persons as it considers necessary to be the Conciliators for the purposes of this Act and shall specify in the notification the area within which, or the class of establishments or industries in relation to which, each one of them shall perform his functions.

to which, each one of them shall be liable.

36. Notice of strike or lock-out: The period of a notice of lock-out or strike given under sub-section (3) of Section 34 shall be fourteen days.

37. Conciliation after notice of strike or lock-out: Where a party to an industrial dispute serves a notice of strike or lock-out under Section 34, it shall, simultaneously, with the service of such notice, deliver a copy thereof to the Conciliator who shall proceed to conciliate in the dispute and also forward a copy of the notice to the Labour Court.

38. Proceedings before Conciliator: (1) The Conciliator shall, as soon as possible, call a meeting of the parties to the dispute for the purpose of bringing about a settlement.

(2) The parties to the dispute shall be represented before the Conciliator by persons nominated by them and authorized to negotiate and enter into an agreement binding on the parties.

(3) If in the opinion of the Conciliator, the presence of the employer or any office-bearer of the trade union connected with the dispute is necessary in a meeting called by him, he shall give notice in writing requiring the employer or such office-bearer to appear in person before him at the place, date and time, specified in the notice and it shall be the duty of the employer or the office-bearer of the trade union to comply with the notice.

(4) The Conciliator shall perform such functions in relation to a dispute before him as may be prescribed and

may, in particular, suggest to either party to the dispute such concessions or modifications in its demand as are in the opinion of the Conciliator likely to promote an amicable settlement of the dispute.

(5) If a settlement of the dispute or of any matter in dispute is arrived at in the course of the proceedings before him, the Conciliator shall send a report thereof to the Government together with a memorandum of settlement signed by the parties to the dispute.

(6) If no settlement is arrived at within the period of the notice of strike or lock-out, the conciliation proceedings may be continued for such further period as may be agreed upon by the parties.

COMMENTS

1. **Meaning of Conciliator:** Conciliator means a person appointed as Conciliator u/sec. 35.

2. **Appointment of Conciliator:** The Court shall by notification in Gazette, appoint as many persons as it considers necessary to be the Conciliator for the purposes of this Act. It is complete discretion of Govt. to determine the number of Conciliators.

Determination of Territorial Limits: In this regard the Govt. shall specify in the notification the area within which or the class of establishments or industries in relation to which each Conciliator shall perform his functions.

3. **Need of Conciliator:** Need of Conciliator arises in the circumstances mentioned u/sec. 34 of the Act:--

(i) **Arise of dispute:** If at any time an employer or a Collective Bargaining Agent finds that an industrial dispute has arisen or is likely to arise the employer or as the case may be the Collective Bargaining Agent may communicate his or its views in writing either to the Council or to the other party.

(ii) **Try to settle the dispute by bilateral negotiation:** On receipt of the communication the Council or the party receiving communication shall try to settle the dispute by bilateral negotiations within ten days of receipt of the communication or within such further period as may be agreed upon the by the parties and if the parties reach a settlement, a memorandum of settlement shall be recorded in writing and signed by both the parties and a copy thereof shall be forwarded to the Conciliator.

(iii) **Settlement not reached:** Where a settlement is not reached between the employer and the Collective Bargaining Agent or if the view of the employer or Collective Bargaining Agent have been communicated to the Council, there is failure of bilateral negotiations in the Council, the Council or the Collective Bargaining Agent may within seven days from the end of the period as referred before serve on the other party to the dispute a notice of lock-out or strike in accordance with the provisions of this Act.

4. **Period of such notice:** The period of a notice of lock-out or strike shall be fourteen days.

5. **Function of Conciliator:** When parties decide to refer an industrial dispute to the Conciliator for reconciliation, then the Conciliator starts to perform his functions u/secs. 37 and 38 which are:-

(i) **To receive notice:** Where a party to an industrial dispute serves a notice of strike or lock-out, it shall, simultaneously with the service of such notice, deliver a copy thereof to the Conciliator who shall proceed to Conciliator in the dispute and also forward a copy of the notice to the Labour Court.

(ii) **Calling a meeting of parties:** The Conciliator shall as soon as possible call a meeting of the parties for the purpose of bringing about a settlement.

(iii) **Representation of parties before Conciliator:** The parties to the dispute shall be represented before Conciliator by persons nominated them and authorized to negotiate and enter into an agreement binding on the parties.

(iv) **Requiring employer etc. to appear in person:** If in the opinion of the Conciliator, the presence of the employer or any officer bearer of the trade union connected with the dispute is necessary in a meeting called by him, he shall give notice in writing requiring the employer as such office-bearer to appear in person before him at the place, date and time specified in the notice and it shall be the duty of the employer or the office-bearer of trade union to comply with such notice.

(v) **Perform prescribed function:** The Conciliator shall perform such functions in relation to a dispute before him as may be prescribed and may in particular, suggest to either party to the dispute such concessions or modifications in its demand as are in the opinion of the Conciliator likely to promote an amicable settlement of dispute.

(vi) **Send a report of settlement:** If a settlement of the dispute or of any matter in dispute is arrived at in the course of the proceedings before him, the Conciliator shall send a report thereof to the Govt. together with a memorandum of settlement signed by the parties to the dispute.

(vii) **Continuation of proceedings:** If no settlement is arrived at within the period of the notice of strike or lock-out, the Conciliation proceedings may be continued for such further period as may be agreed upon by the parties.

(viii) **Persuade the parties to agree to refer the dispute to an Arbitrator:** If the Conciliation fails the Conciliator shall try to persuade the parties to agree to refer the dispute to an arbitrator.

39. Arbitration: (1) If the conciliation fails, the Conciliator shall try to persuade the parties to agree to refer the dispute to an Arbitrator.